

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----x Index No.:  
J.S., : Date purchased:  
an Infant under the age of :  
18 years, by her Mother and : Plaintiff(s) designate(s)  
Natural Guardian IRIS COLON, and : Kings  
IRIS COLON Individually, : County as the place of trial  
: :  
: :  
Plaintiff, :  
: The basis of the venue is  
: situs of accident  
-against- :  
: SUMMONS  
NEW YORK DEPARTMENT OF EDUCATION, :  
THE CITY OF NEW YORK,, : Plaintiff resides at  
MESA CHARTER SCHOOL, : 319 Wilson Avenue  
: Brooklyn, New York  
Defendants.:  
-----x County of Kings  
To the above named Defendant(s)

**You are hereby summoned** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: October 4, 2019

Defendant Address:

Dominick W. Lavelle  
Attorney(s) for Plaintiff  
Office and Post Office Address  
100 Herricks Road, Suite 201  
Mineola, New York 11501

THE CITY OF NEW YORK  
100 Church Street  
New York, New York 10007

THE NEW YORK CITY DEPARTMENT OF EDUCATION  
52 Chambers Street  
New York, New York 10007

MESA CHARTER SCHOOL  
213 Palmetto Street  
Brooklyn, New York 11221

la\16907summons

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----x	
J.S.,	:
an Infant under the age of	:
18 years, by her Mother and	:
Natural Guardian IRIS COLON, and	:
IRIS COLON Individually,	:
	:
	:
Plaintiffs,	:
	:
-against-	:
	:
NEW YORK DEPARTMENT OF EDUCATION,	:
THE CITY OF NEW YORK,	:
MESA CHARTER SCHOOL,	:
	:
	:
Defendants.	:
-----x	

Index No.:

Filing Date:

VERIFIED COMPLAINT

Plaintiff, J.S., an infant under the age of 18 years, by her Mother and Natural Guardian IRIS COLON, and IRIS COLON, Individually, by and through their attorney DOMINICK W. LAVELLE, ESQ, complaining of the defendants, hereby alleges as follows:

1. That at all times hereinafter mentioned, plaintiff J.S. is a resident of the County of Kings, State of New York, residing at 319 Wilson Avenue, Brooklyn, New York.

2. That at all times hereinafter mentioned, plaintiff IRIS COLON is an individual residing at all times relevant to the within action at 319 Wilson Avenue, Brooklyn, New York.

3. That at all times hereinafter mentioned, and upon information and belief, the defendant THE CITY OF NEW YORK was and still is a municipal corporation duly created and existing by

and under the laws of the State of New York with its principal place of business located at Law Department, 100 Church Street, New York, New York 10007.

4. That at all times hereinafter mentioned, and upon information and belief, defendant THE NEW YORK CITY DEPARTMENT OF EDUCATION, was and still is a public service corporation or other entity engaged in the education, rehabilitation and training of its students with its principal offices located at Legal Department, 52 Chambers Street, New York, New York 10007.

5. That at all times hereinafter mentioned, and upon information and belief, the defendant MESA CHARTER SCHOOL was and still is public service corporation or other entity engaged in the education, rehabilitation and training of its students with its principal offices located 213 Palmetto Street, Brooklyn, New York 11221.

6. That at all times hereinafter mentioned, MESA CHARTER SCHOOL is a charter school, and is located at 213 Palmetto Street, Brooklyn, New York 11221 (the "School").

AND AS FOR A FIRST CAUSE OF ACTION  
(Negligence against defendant THE CITY OF NEW YORK)

7. Plaintiffs repeat and reallege each of the allegations

contained in paragraphs "1" through "6" of the complaint as if set forth herein at length.

8. That at all times hereinafter mentioned, and upon information and belief, the defendant THE CITY OF NEW YORK reserved to themselves the care, control and supervision of the students in attendance at the School including the plaintiff herein.

9. That at all times hereinafter mentioned, the defendant THE CITY OF NEW YORK were in control of the supervision of all students within the School and on school trips. During all school hours of each school day, the defendants had full supervision, care, custody and control of the pupils sent to the School and on school trips, including the infant plaintiff herein, and such supervision, care, custody and control was relinquished to the defendants by the parent of the infant plaintiff during the hours when the School was in session including school trips.

10. That at all times hereinafter mentioned, the defendant held themselves out to the general public as capable of performing the duties of an educational institution and capable of assuming the supervision, care, custody and control of the pupils sent to it for instruction and school authorized trips.

11. That at all times hereinafter mentioned the defendant

reserved to themselves the care, control and supervision of the students at the School for the entire school day including school trips.

12. That on or about the 3rd day of April, 2013, at approximately 9:30 A.M., the infant plaintiff J.S. was lawfully under the control of the defendants when she was on a school trip to Washington, D.C., when she was sexually assaulted by another student on the bus while under the direct supervision of THE CITY OF NEW YORK thereby causing her suffer serious injury to her mental health including but not limited to anxiety and post-traumatic stress.

13. The crime committed against infant plaintiff J.S. was a "sexual offense" under Article 130 of the Penal law.

14. At all times hereinafter mentioned, it was the duty of defendant and such defendant was charged with the supervision, care, safety, custody and control of all the pupils sent to the School, including the infant plaintiff, and it was further the duty of the defendants to so conduct themselves that it became safe and proper for the pupils, including this plaintiff, to attend School trips under properly enforced measures according to, but not limited to, the School Safety Plan.

15. Defendant did not exercise reasonable care and diligence

in the selection, engagement and employment of its teachers, agents, servants and/or employees and placed the infant plaintiff herein in danger by engaging unlicensed and unqualified personnel, poorly trained and improperly supervised personnel and failure to follow a poorly constructed School safety plan, and thereby negligently and carelessly failed to maintain proper supervision and control of persons lawfully on the premises.

16. Defendant failed to provide proper guidance to the students, which contributed to the violent situations in which defendant was injured.

17. That as a result of the foregoing, the infant plaintiff suffered serious injuries including but not limited to anxiety and post-traumatic stress disorder; she was and still is and may for a long time to come be compelled to undergo medical treatment; she suffered and will continue to suffer great mental pain and suffering, all to her damage.

18. That the foregoing incident and the resulting injuries and damages to the plaintiff J.S. were caused solely by virtue of the carelessness, negligence and culpable acts and conduct on the part of the defendant, and without any negligence on the part of the plaintiff contributing thereto.

19. That this action falls within one or more of the

exceptions set forth in CPLR 1602.

20. That by reason of the foregoing, plaintiff J.S. was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great emotional upset, some of which injuries are permanent in nature and duration, and plaintiff J.S. will be permanently caused to suffer inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries and plaintiff J.S. has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and the plaintiff J.S. will be unable to pursue her usual duties with the same degree and efficiency as prior to this accident, all to her great damage.

21. That at all times hereinafter mentioned, plaintiff, J.S. was attending a trip with the School in a lawful and careful manner.

22. That by reason of the foregoing, plaintiff J.S. has been damaged.

23. The amount of the damages suffered by plaintiff exceeds the jurisdictional limits of all of the lower courts.

WHEREFORE, plaintiffs, demand judgment against the defendant THE CITY OF NEW YORK, along with the costs and disbursements of this action, and such other and further relief this court deems just and proper.

AND AS FOR A SECOND CAUSE OF ACTION  
(Negligence against Defendant NEW YORK DEPARTMENT OF  
EDUCATION)

24. Plaintiffs repeat and reallege each of the allegations contained in paragraphs "1" through "6" of the complaint as if set forth herein at length.

25. That at all times hereinafter mentioned, and upon information and belief, the defendant NEW YORK DEPARTMENT OF EDUCATION reserved to themselves the care, control and supervision of the students in attendance at the School including the plaintiff herein.

26. That at all times hereinafter mentioned, the defendant NEW YORK DEPARTMENT OF EDUCATION was in control of the supervision of all students within the School and on school trips. During all school hours of each school day, the defendant had full supervision, care, custody and control of the pupils sent to the School and on school trips, including the infant plaintiff herein, and such supervision, care, custody and control was relinquished to the defendant by the parent of the infant plaintiff during the hours when the School was in session



including school trips.

27. That at all times hereinafter mentioned, the defendant held themselves out to the general public as capable of performing the duties of an educational institution and capable of assuming the supervision, care, custody and control of the pupils sent to it for instruction and school authorized trips.

28. That at all times hereinafter mentioned the defendant NEW YORK DEPARTMENT OF EDUCATION reserved to themselves the care, control and supervision of the students at the School for the entire school day including school trips.

29. That on or about the 3rd day of April, 2013, at approximately 9:30 A.M., the infant plaintiff J.S. was lawfully under the control of the defendant NEW YORK DEPARTMENT OF EDUCATION when she was on a school trip to Washington, D.C., when she was sexually assaulted by another student on the bus while under the direct supervision of the NEW YORK DEPARTMENT OF EDUCATION thereby causing her suffer serious injury to her mental health including but not limited to anxiety and post-traumatic stress.

30. The crime committed against infant plaintiff J.S. was a "sexual offense" under Article 130 of the Penal law.

31. At all times hereinafter mentioned, it was the duty of defendant and such defendant was charged with the supervision, care, safety, custody and control of all the pupils sent to the School, including the infant plaintiff, and it was further the duty of the defendants to so conduct themselves that it became safe and proper for the pupils, including this plaintiff, to attend School trips under properly enforced measures according to, but not limited to, the School Safety Plan.

32. Defendant did not exercise reasonable care and diligence in the selection, engagement and employment of its teachers, agents, servants and/or employees and placed the infant plaintiff herein in danger by engaging unlicensed and unqualified personnel, poorly trained and improperly supervised personnel and failure to follow a poorly constructed School safety plan, and thereby negligently and carelessly failed to maintain proper supervision and control of persons lawfully on the premises.

33. Defendant failed to provide proper guidance to the students, which contributed to the violent situations in which defendant was injured.

34. That as a result of the foregoing, the infant plaintiff suffered serious injuries including but not limited to anxiety and post-traumatic stress disorder; she was and still is and may for a long time to come be compelled to undergo medical

treatment; she suffered and will continue to suffer great mental pain and suffering, all to her damage.

35. That the foregoing incident and the resulting injuries and damages to the plaintiff J.S. were caused solely by virtue of the carelessness, negligence and culpable acts and conduct on the part of the defendant, and without any negligence on the part of the plaintiff contributing thereto.

36. That this action falls within one or more of the exceptions set forth in CPLR 1602.

37. That by reason of the foregoing, plaintiff J.S. was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great emotional upset, some of which injuries are permanent in nature and duration, and plaintiff J.S. will be permanently caused to suffer inconvenience and other effects of such injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries and plaintiff J.S. has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and the plaintiff J.S. will be unable to pursue her usual duties with the same degree and efficiency as prior to this accident, all to her great damage.

38. That at all times hereinafter mentioned, plaintiff, J.S. was attending a trip with the School in a lawful and careful manner.

39. That by reason of the foregoing, plaintiff J.S. has been damaged.

40. The amount of the damages suffered by plaintiff exceeds the jurisdictional limits of all of the lower courts.

WHEREFORE, plaintiffs, demand judgment against the defendant NEW YORK DEPARTMENT OF EDUCATION, along with the costs and disbursements of this action, and such other and further relief this court deems just and proper.

AND AS FOR A THIRD CAUSE OF ACTION  
(Negligence against Defendant MESA CHARTER SCHOOL)

41. Plaintiffs repeat and reallege each of the allegations contained in paragraphs "1" through "6" of the complaint as if set forth herein at length.

42. That at all times hereinafter mentioned, and upon information and belief, the defendant MESA CHARTER SCHOOL reserved to themselves the care, control and supervision of the students in attendance at the School including the plaintiff

herein.

43. That at all times hereinafter mentioned, the defendant MESA CHARTER SCHOOL were in control of the supervision of all students within the School and on school trips. During all school hours of each school day, the defendants had full supervision, care, custody and control of the pupils sent to the School and on school trips, including the infant plaintiff herein, and such supervision, care, custody and control was relinquished to the defendants by the parent of the infant plaintiff during the hours when the School was in session including school trips.

44. That at all times hereinafter mentioned, the defendants held themselves out to the general public as capable of performing the duties of an educational institution and capable of assuming the supervision, care, custody and control of the pupils sent to it for instruction and school authorized trips.

45. That at all times hereinafter mentioned the defendants reserved to themselves the care, control and supervision of the students at the School for the entire school day including school trips.

46. That on or about the 3rd day of April, 2013, at approximately 9:30 A.M., the infant plaintiff J.S. was lawfully under the control of the defendants when she was on a school trip

to Washington, D.C., when she was sexually assaulted by another student on the bus while under the direct supervision of MESA CHARTER SCHOOL thereby causing her suffer serious injury to her mental health including but not limited to anxiety and post-traumatic stress.

47. The crime committed against infant plaintiff J.S. was a "sexual offense" under Article 130 of the Penal law.

48. At all times hereinafter mentioned, it was the duty of defendant and such defendant was charged with the supervision, care, safety, custody and control of all the pupils sent to the School, including the infant plaintiff, and it was further the duty of the defendants to so conduct themselves that it became safe and proper for the pupils, including this plaintiff, to attend School trips under properly enforced measures according to, but not limited to, the School Safety Plan.

49. Defendants did not exercise reasonable care and diligence in the selection, engagement and employment of its teachers, agents, servants and/or employees and placed the infant plaintiff herein in danger by engaging unlicensed and unqualified personnel, poorly trained and improperly supervised personnel and failure to follow a poorly constructed School safety plan, and thereby negligently and carelessly failed to maintain proper supervision and control of persons lawfully on the premises.

50. Defendants failed to provide proper guidance to the students, which contributed to the violent situations in which defendant was injured.

51. That as a result of the foregoing, the infant plaintiff suffered serious injuries including but not limited to anxiety and post-traumatic stress disorder; she was and still is and may for a long time to come be compelled to undergo medical treatment; she suffered and will continue to suffer great mental pain and suffering, all to her damage.

52. That the foregoing incident and the resulting injuries and damages to the plaintiff J.S. were caused solely by virtue of the carelessness, negligence and culpable acts and conduct on the part of the defendant, and without any negligence on the part of the plaintiff contributing thereto.

53. That this action falls within one or more of the exceptions set forth in CPLR 1602.

54. That by reason of the foregoing, plaintiff J.S. was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great emotional upset, some of which injuries are permanent in nature and duration, and plaintiff J.S. will be permanently caused to suffer inconvenience and other effects of such

injuries; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries and plaintiff J.S. has suffered and in the future will necessarily suffer additional loss of time and earnings from employment; and the plaintiff J.S. will be unable to pursue her usual duties with the same degree and efficiency as prior to this accident, all to her great damage.

55. That at all times hereinafter mentioned, plaintiff, J.S. was attending a trip with the School in a lawful and careful manner.

56. That by reason of the foregoing, plaintiff J.S. has been damaged.

57. The amount of the damages suffered by plaintiff exceeds the jurisdictional limits of all of the lower courts.

WHEREFORE, plaintiffs, demand judgment against the defendant MESA CHARTER SCHOOL, along with the costs and disbursements of this action, and such other and further relief this court deems just and proper.

AS AND FOR A FOURTH CAUSE OF ACTION

(Loss Of Services against all defendants)



58. Plaintiffs hereby reallege and reassert each of the allegations contained in paragraphs 1 through 57 of the complaint as if set forth herein at length.

59. Plaintiff IRIS COLON, at all the times hereinbefore mentioned was, and still is the Mother of the infant plaintiff, J.S.; she was and is entitled to the services, earnings and society of J.S.; in consequence of the injuries to J.S., as aforesaid, plaintiff J.S. has been caused great expense, loss and trouble; this plaintiff has been deprived of the services, earnings and society of her said child; the ability of said plaintiff J.S. has been and will be impaired and depreciated for a long time to come; this plaintiff has necessarily incurred expenses for doctors and other medical attention in an endeavor to cure said plaintiff J.S. of her said injuries, and it will be necessary to incur further expense for such purpose all to this plaintiff's damage.

60. That by reason of the foregoing, plaintiff IRIS COLON has been damaged.

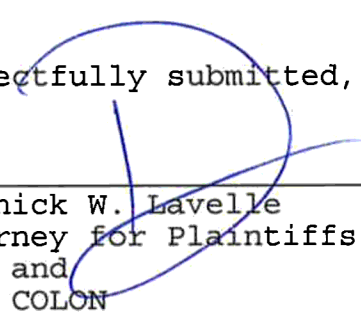
61. The amount of the damages suffered by plaintiff exceeds the jurisdictional limits of all of the lower courts.

WHEREFORE, plaintiff IRIS COLON demands judgment against the all defendants on the fourth cause of action, the costs and

disbursements of this action, and such other relief the court may deem just and proper.

Dated: Mineola, New York  
October 1, 2019

Respectfully submitted,



---

Dominick W. Lavelle  
Attorney for Plaintiffs  
J.S. and  
IRIS COLON  
100 Herricks Road, Suite 201  
Mineola, New York 11501  
(516) 739-8111

I\vc16907